

TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1329 Fax: (207) 439-6806

WORKSHOP 6:00 P.M.

The Town Council will meet with the Town Manager and Senator Dawn Hill to discuss upcoming legislation.

January 12, 2015

Council Chambers

Kittery Town Council
Regular Meeting
7:00 p.m.

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. Agenda Amendment and Adoption
6. Town Manager's Report
7. Acceptance of Previous Minutes – 12/8/14, 12/22/14, 1/5/15
8. Interviews for the Board of Appeals and Planning Board
9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.
10. PUBLIC HEARINGS
11. DISCUSSION
 - a. Discussion by members of the public (three minutes per person)
 - b. Response to public comment directed to a particular Councilor
 - c. Chairperson's response to public comments
12. UNFINISHED BUSINESS
 - a. (110314-1) The Kittery Town Council moves to discuss the installation of steps on the town's ROW on Bowen Road.

13. NEW BUSINESS

a. Donations/gifts received for Council disposition

(010215-1) The Kittery Town Council moves to accept a donation from York Hospital in the amount of \$9,250 for scholarships and be deposited in account #5003-43600.

b. (010215-2) The Kittery Town Council moves to approve a request from Traip Academy Project Graduation to hold a Hockey Shoot-off on Legion Pond on Sunday, February 15, 2015, from noon to 3:00 p.m., with a back-up date of Sunday, February 22nd.

c. (010215-3) The Kittery Town Council moves to approve the disbursement warrants.

d. (010215- 4) The Kittery Town Council moves to approve a renewal application from Weathervane Seafoods, 31 Badger's Island West for a Malt, Spirituous and Vinous Liquor License for Weathervane Seafoods, 306 US Route 1.

e. (010215-5) The Kittery Town Council moves to ratify and sign a three year labor contract from July 1, 2014 thru June 30, 2017, for the Public Works unit.

f. (010215-6) The Kittery Town Council moves to appoint Tom Emerson to the Economic Development Committee as a Voting Business member until 12/31/15. (replacing Ann Grinnell)

g. (010215-7) The Kittery Town Council moves to discuss the dilapidated building and property at 40 Old Post Road, Map 8, Lot 25.

h. (010215-8) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Port Authority to interview Bruce Crawford for his appointment until 8/31/19 (replacing Barry Bush).

14. COUNCILOR ISSUES OR COMMENT

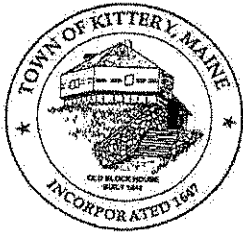
15. COMMITTEE AND OTHER REPORTS

a. Communications from the Chairperson

b. Committee Reports

16. EXECUTIVE SESSION:

17. ADJOURNMENT



TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

ncolbertpuff@kitteryme.org

Nancy Colbert Puff
Town Manager

Town Manager's Report to the Town Council January 12, 2015

1. **Upcoming Legislative Agenda/Cloture Date** – Senator Hill's staff member Darek Grant called in advance of the January 2 deadline for submission of bill titles for the upcoming session in Augusta. I discussed the transfer of John Paul Jones Park and the proposal for Kittery to take over routine maintenance of the Route 1 Bypass and the SML Bridge. He has submitted placeholders for each issue, which I expect will be discussed in our workshop with the Senator.
2. **Sewer Extension Project Bids** – On Tuesday, January 6th we opened bids on the sewer extension project. We received three bids, as follows:

#	Bidder	Total Bid
1.	R.J. Grondin & Sons (Gorham)	\$8,808,930
2.	Albanese Brothers, Inc. (Dracut, MA)	\$7,754,350
3.	Sargent Corp. (Stillwater)	\$6,534,480

The most recent project estimate, by comparison, is as follows:

Category	Budget	Low Bid
Engineering:	\$1,353,400	\$1,353,400
Construction Estimate	\$5,553,100	\$6,534,480
Construction Contingency (10%)	<u>\$555,310</u>	<u>\$0</u>
Total:	\$7,461,810	\$7,887,880
Referendum Vote:	\$7,586,525	\$7,586,525
Difference	\$124,715	(\$301,355)

As you can see, the bids vary by over \$1 million increments, and the apparent low bid puts us over our total project budget by \$301,355. It also exceeds our last construction estimate by ~18%. One significant cost item that was added to the project after design completion occurred as a result of the I-95 corridor being transferred from the Department of Transportation to the Turnpike Authority, and their different construction requirements for directional drilling under the road.

We are in the process of examining unit pricing, and talking with contractors who received the project package but did not submit a bid, to see if there appears to be a likely explanation(s) for this pricing. I will keep the Council informed as we get more detail.

3. **Code Enforcement Official (CEO) & Public Health Officer** – I am pleased to announce my appointment of Robert Marchi as Kittery's new CEO and Public Health Officer. Bob brings a wealth of experience in the building trades to the position, having operated his own plumbing business in Town for many years, and more recently serving as a Special Project Coordinator for the Energy Resources Group, Inc. Bob will be starting here on January 20th.

I would also like to thank Shelley Bishop for her exceptional service to the Town as she filled in as Interim CEO.

4. **Dispatch Service to Eliot** – At the recommendation of the Police Chief, I have notified Eliot that our fee for FY 2016 dispatch services will be \$80,000. This is an \$11,000 increase over FY 2015, as we seek to have this fee more accurately represent our cost to provide these services, after having been held at a low, flat rate for 5 years.
5. **Customer Service Training** – The Kittery Community center is hosting the Maine Municipal Association's "Customer Service Excellence" training on Thursday January 29th. Many of our employees will be attending this training, and as a result, our offices will be closed to the public for a good portion of this day. We will post appropriate notices to make people aware of our hours on this day.
6. **Assessing Proposals** – I received three responses to my RFP for assessing services and will be convening the Council's subcommittee to review and evaluate whether this direction may be appropriate for Kittery.
7. **Council Appointment Review Committee** – I have asked Ann Grinnell, chair of the Planning Board, and George Dow, chair of the Economic Development Committee to serve on this group. We will have our first meeting on January 20th.
8. **Athletic Fields Master Plan** – We will be holding a kick-off meeting with Weston and Sampson on Monday, January 12th.
9. **Utility Billing Bookkeeper /Assistant Tax Collector** – I would like to thank Meredith Kearny Clark for her 17 years of faithful service to the Town of Kittery. Meredith is leaving Maine for warmer temperatures, as she and her husband relocate to North Carolina. We wish her all the best in her future endeavors! We are actively searching for her replacement.
10. **Sergeant Don Truax Retirement** – Sergeant Truax will retire from the Kittery Police Department as of January 10th. I would like to thank Don for his years of dedicated service to the Town and wish him all the best in the future. We are in the process of setting up interviews for his replacement.
11. **Town Hall Hiring/Procurement Procedures** – At our last session, Councilor Denault raised several questions about hiring and procurement practices. As both the Personnel

Director and Procurement Officer for the Town, I hope the following detail will clarify any lingering misunderstanding.

- a. The Town Charter section 2.11 reads in part, "Except where authorized by law, no councilor shall hold any other office or employment with the school department or in a town department during the term for which the councilor was elected to the council." As the Councilor stated, we did sit down shortly after his appointment as Councilor and agreed that he should end his tenure as an IT consultant to various Town Departments.
- b. Town Code Section 2.3.8B states: "Vacancies in positions above the entrance level are filled by promotion whenever, in the judgment of the Town Manager, it is in the best interests of the Town to do so. Promotions must give appropriate consideration to the applicant's qualifications, record of performance, and seniority." I promoted Chris DiMatteo to be Town Planner pursuant to Town Code, following a period of satisfactory performance as Interim Town Planner. We are in the process of advertising for the Assistant Planner position now, and have cast a wide search for this position.
- c. Town Code Section 3.2.6 Limited Purchase Allowance (LPA) applies to purchases under \$5,000 and reads in part: "It is recognized that the purposes of a formalized purchasing procedure could be subverted by lost opportunity and time if required on incidental purchases... This allowance is intended to speed the purchase of incidental items..." Fees for project management of both the KCC boiler replacement and the Town Hall roof replacement project were under \$5,000, and time was of the essence in each.

Part of the experience I bring to Kittery is construction management, having directly been responsible for the proper administration of over \$54 million in funding to renovate, expand, and build public facilities. In both of these projects, the Town received project management services, which is different from a "clerk of works" type of position – this type of work includes development of specifications and contract terms and conditions, bidding assistance, project scheduling, on-site management and communication, tracking of work progress, reviewing and recommending progress payments, identifying deficient work for correction, responding to emergencies related to the work, collecting warranty information and close-out documentation, etc.

- As reported to Council, we were fortunate to be awarded a grant through the Seacoast Energy Initiative (SEI). This project had a very aggressive timeframe, from grant submittal to construction completion (June-September). Steve had familiarity with the SEI and with federal grant regulations, and after consulting with KCC Director Janice Grady, we agreed to take advantage of his proposal to assist in preparing the grant for submittal and overseeing the entire project.

The KCC Board of Directors has no direct or indirect pecuniary interest in the center, nor does it oversee day-to-day operations of the center. The project was completed using grant and CIP funding. That said, in order to avoid the

appearance of conflict, prior to hiring Steve, his potential participation was disclosed at a Board meeting with no objections raised.

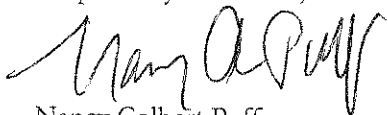
The boiler replacement has been successfully completed. The construction cost totaled \$65,600, and Steve was paid \$4,700 (approx. \$47/hour) for his work. Prior to settling on this fee, I checked the hourly rate being paid to the regional project manager, which was \$65/hour, and consulted with the original HVAC designer for the KCC renovation.

- The Town Hall Roof Replacement project was funded as part of the FY 2015 Capital Improvement Program (CIP). Prior roof leaks dictated that it would be best to complete the project before the start of the winter season. Having no facilities manager who might bid and manage the project on my behalf, I began talking with Department Heads about how this could be accomplished in the near term. I learned the Fire Chief had the ability, knowledge, and availability to complete this work, and asked him to assist me. The project is nearly complete, and I expect it will total \$154,350, and the Chief will earn \$3,800 for his services.

As I stated at the last Council meeting, I have the Town's best interest in mind when making these decisions. I fully appreciate Councilor Denault's concern about fairness and opportunity, and assure the Council that I will continue to keep both in mind in the future.

As always, if you have any questions or concerns prior to Monday's evening's meeting, please do not hesitate to contact me. Thank you.

Respectfully Submitted,



Nancy Colbert Puff

UNAPPROVED MINUTES

KITTERY TOWN COUNCIL

December 8, 2014

COUNCIL CHAMBERS

1. Call to Order

Chairperson Thomson called the meeting to order at 7:00 P.M.

2. Introductory

Chairperson Thomson read the introductory.

3. Pledge of Allegiance

Chairperson Thomson led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll were Chairperson Jeffrey Thomson, Councilors Russell White, Frank Dennett, Chuck Denault, Jeffrey Pelletier and Ken Lemont.

5. Agenda Amendment and Adoption –

The agenda was accepted as presented.

6. Town Manager's Report –

Town Manager Puff indicated that they were exploring the possibility of extending dispatch services to Berwick and that the initial discussions had taken place.

Town Manager Puff noted that they had selected a consultant, Weston Sampson, to develop the master field plan.

Town Manager Puff stated that she had met with the regional planning agency and Commute Smart NH relative to the Shipyard traffic and projects and they would be meeting on a regular basis.

Town Manager Puff indicated relative to the Bowen Road issue, that they were awaiting a response from the town attorney.

Town Manager Puff noted that the KCC had put on a Thanksgiving lunch for seniors and they had done an excellent job.

Town Manager Puff asked that residents be patient with snow plowing and sidewalk clearing. She continued that the town could not do anything but power outages.

UNAPPROVED MINUTES

28 Town Manager Puff stated that Town Hall would be closing early on Christmas Eve and
29 New Year's Eve.

30 Town Manager Puff indicated she had appointed Chris D'Amato to the town planner
31 position.

32 7. Acceptance of Previous Minutes –11/10/14 & 11/24/14

33 8. Interviews for the Board of Appeals and Planning Board –

34 **Board of Appeals**

- 35 • Vern Gardner

36 Vern Gardner came to the podium and stated that he had heard Council's plea for residents to
37 volunteer for town boards, so he had come forward. He continued that he had previously been
38 on the Board for 9 years.

39 **COUNCILOR PELLETIER MOVED TO APPOINT VERN GARDNER TO THE**
40 **BOARD OF APPEALS FOR A TERM ENDING 3/25/16, SECONDED BY**
41 **CHAIRPERSON THOMSON FOR DISCUSSION.**

42 Councilor Denault stated that he wanted to make sure that Mr. Gardner was able to serve
43 because he had served almost three full prior terms. Chairperson Thomson indicated he thought
44 it was okay because those terms were not fully complete. Councilor Dennett stated that he
45 would be voting no based on the Town Charter.

46 **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT AND**
47 **COUNCILOR DENAULT OPPOSED. MOTION PASSES 4/2.**

48 9. All items involving the town attorney, town engineers, town employees or other town
49 consultants or requested officials – None

50 10. PUBLIC HEARINGS -

51 a. (120114-1) The Kittery Town Council moves to hold a public hearing and hereby
52 ordains amendments to Title 16.10, 16.2, 16.3, 16.7, and 16.8 of the Kittery Town Code, as
53 recommended by the Planning Board.

54 Chairperson Thomson noted that this public hearing was advertised in the local, printed
55 media on 11/29/14.

56 Chairperson Thomson then opened the public hearing.

UNAPPROVED MINUTES

57 Mary Throssen came to the podium and encouraged Council to approve amendments to
58 Title 16.7.35.10.

59 Chairperson Thomson then closed the public hearing. He noted that the amendments to
60 Chapter 16.9 had been omitted from the public notification and would need to be scheduled for a
61 public hearing.

62 **COUNCILOR WHITE MOVED THAT THE KITTELY TOWN COUNCIL**
63 **HEREBY ORDAINS AMENDMENTS TO TITLE 16.8.10.2(C), SECONDED BY**
64 **COUNCILOR LEMONT.**

65 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
66 **6/0.**

67 Councilor Dennett indicated that the other amendments were complex and that he could
68 not vote for them without further information. He continued he needed more time to review the
69 documents and have additional dialogue with the Planning Board.

70 **CHAIRPERSON THOMSON MOVED TO POSTPONE ACTION ON THE**
71 **ADDITIONAL AMENDMENTS UNTIL JANUARY 26, 2015, SECONDED BY**
72 **COUNCILOR DENNETT.**

73 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION**
74 **PASSES 6/0.**

75 **CHAIRPERSON THOMSON MOVED TO SCHEDULE A PUBLIC HEARING**
76 **ON THE OMITTED CHAPTER 16.9 AMENDMENTS, SECONDED BY COUNCILOR**
77 **PELLETIER.**

78 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
79 **6/0.**

80 11. Discussion

81 a. Discussion by members of the public –

82 Dan Ford came to the podium and indicated that he had recently interviewed for the KPA
83 after being on the waiting list for 8 years. He continued that he was denied due to his
84 involvement with the Spruce Creek Association. Mr. Ford asked if the same criteria was used
85 for all boards in town and asked if there was any ability for the denied applicant to address the
86 board's decision. He continued that he thought that appointments should stop being made until
87 the code was straightened out.

UNAPPROVED MINUTES

Martha Peterson came to the podium and stated that she called into question the recent decision to appoint an applicant to the Planning Board over another applicant. She continued that she thought a person's experience and qualifications were more important than their place on the waiting list. Ms. Peterson indicated that Council clarify what the ordinance states about being on the waiting list having to do with being appointed.

Alice Charlesworth came to the podium and stated that she also questioned the recent appointment to the Planning Board and requested that a Councilor ask to reconsider the vote.

b. Response to public comment directed at a particular Councilor

Councilor Pelletier indicated that he was disappointed that Mr. Ford cannot be appointed to the KPA. He continued that Mr. Ford was very qualified and wished that he had been given the chance to address the issues that were brought up. Councilor Pelletier stated that Council needed to give some thought to what happens to people that were denied appointments.

c. Chairperson's response to public comments

Chairperson Thomson stated that they would be holding a workshop on appointments on December 22nd and that more conversation was needed.

Chairperson Thomson responded relative to the Planning Board appointment, that the applicant pool had been empty for over a year and thought it was suspicious that someone else had come forward after another applicant applied.

12. UNFINISHED BUSINESS – None

13. NEW BUSINESS

a. Donations/gifts received for Council disposition - None

b. (120114-2) The Kittery Town Council moves to extend the existence of the Economic Development Committee (EDC) past its current sunset date of 12/31/14, to a future date certain of December 31, 2015, prior to which Council will review the status of the EDC and its continued need.

George Dow came to the podium and stated that it was a great board and asked that Council extend its sunset date.

COUNCILOR WHITE MOVED TO EXTEND THE EXISTENCE OF THE ECONOMIC DEVELOPMENT COMMITTEE (EDC) PAST ITS CURRENT SUNSET DATE OF 12/31/14, TO A FUTURE DATE CERTAIN OF DECEMBER 31, 2015, PRIOR TO WHICH COUNCIL WILL REVIEW THE STATUS OF THE EDC AND ITS CONTINUED NEED, SECONDED BY COUNCILOR PELLETIER.

UNAPPROVED MINUTES

120 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
121 **6/0.**

122 c. (120114-3) The Kittery Town Council moves to appoint Robert Harris to the
123 Personnel Board until 6/13/17.

124 **COUNCILOR PELLETIER MOVED TO APPOINT ROBERT HARRIS TO THE**
125 **PERSONNEL BOARD UNTIL 6/13/17, EFFECTIVE 12/9/14, SECONDED BY**
126 **COUNCILOR DENAULT.**

127 **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR WHITE ABSTAINED.**
128 **MOTION PASSES 5/0/1.**

129 d. (120114-4) The Kittery Town Council moves to approve the disbursement warrants.

130 **COUNCILOR PELLETIER MOVED TO APPROVE THE DISBURSEMENT**
131 **WARRANTS, SECONDED BY CHAIRPERSON THOMSON, WITH ALL IN FAVOR.**
132 **MOTION PASSES 6/0.**

133 e. (120114-5) The Kittery Town Council moves to appoint a representative to meet with
134 a member of the Rice Library Board of Trustees to interview William Tredwell for his
135 appointment to that board.

136 **CHAIRPERSON THOMSON MOVED TO APPOINT COUNCILOR WHITE TO**
137 **MEET WITH A MEMBER OF THE RICE LIBRARY BOARD OF TRUSTEES TO**
138 **INTERVIEW WILLIAM TREDWELL FOR HIS APPOINTMENT TO THAT BOARD,**
139 **SECONDED BY COUNCILOR DENAULT WITH ALL IN FAVOR. MOTION PASSES**
140 **6/0.**

141 f. (120114-6) The Kittery Town Council moves to appoint a representative to meet with
142 the Chair of the Comprehensive Plan Committee to interview Tom Hibschan for his
143 appointment to that board as a citizen representative until the Committee's work is done.

144 **CHAIRPERSON THOMSON MOVED TO APPOINT, WITHOUT THE BENEFIT**
145 **OF AN INTERVIEW, TOM HIBSCHMAN TO THE COMPREHENSIVE PLAN**
146 **COMMITTEE AS A CITIZEN REPRESENTATIVE UNTIL THE COMMITTEE'S**
147 **WORK IS DONE, SECONDED BY COUNCILOR DENAULT.**

148 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
149 **6/0.**

150 g. (120114-7) The Kittery Town Council moves to appoint Paul Lucy to the Personnel
151 Board until 11/30/16.

UNAPPROVED MINUTES

COUNCILOR LEMONT MOVED TO APPOINT PAUL LUCY TO THE PERSONNEL BOARD UNTIL 11/30/16, EFFECTIVE 12/9/14, SECONDED BY COUNCILOR PELLETIER.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

14. COUNCILOR ISSUE OR COMMENT

Councilor Dennett responded to Ms. Charlesworth's earlier request that the recent Planning Board appointment be reconsider, that it would be illegal to do so.

Councilor Denault indicated that he and Councilor Lemont would be meeting with Seacoast Helicopters the next morning.

Councilor Lemont stated that he had received a lot of calls about potholes and would forward those complaints to the manager.

Councilor White noted that Council might want to look at the Manson/Stevenson issue again at some point.

Councilor White asked if the town had a clear inventory on rights of way and parcels it owned and, if not, could that be established?

15. COMMITTEE AND OTHER REPORTS

a. Communications from the Chairperson

Chairperson Thomson stated that they would be holding a workshop on 12/15 on Council's goals and the school board budget goals.

Chairperson Thomson indicated he recommended that the town consider the "pay as you throw" concept.

Chairperson Thomson noted they would be holding a workshop on 12/22 on board appointments.

b. Committee Reports – None

16. EXECUTIVE SESSION – None

17. ADJOURNMENT

COUNCILOR PELLETIER MOVED TO ADJOURN, SECONDED BY COUNCILOR WHITE WITH ALL IN FAVOR. MEETING ADJOURNED AT 8:23 P.M.

UNAPPROVED MINUTES

KITTERY TOWN COUNCIL

December 22, 2014

COUNCIL CHAMBERS

1. Call to Order

Chairperson Thomson called the meeting to order at 7:00 P.M.

2. Introductory

Chairperson Thomson read the introductory.

3. Pledge of Allegiance

Chairperson Thomson led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll were Chairperson Jeffrey Thomson, Councilors Russell White, Frank Dennett, Chuck Denault, Judy Spiller and Ken Lemont.

5. Agenda Amendment and Adoption –

Chairperson Thomson stated that Attorney MacEachern would be speaking relative to the KPA under Item 9.

The agenda was accepted as amended.

6. Town Manager's Report –

Town Manager Puff stated relative to the traffic light at Haley Road, that in order to change the light, the whole intersection might need to be upgraded.

Town Manager Puff noted there was now a permanent assisted listening device in Council Chambers

Town Manager Puff indicated that Town Hall would be closing at 1 PM on Christmas Eve and 3 PM on New Year's Eve.

7. Acceptance of Previous Minutes –11/3/14, 11/24/14 & 12/8/14

The minutes of 11/3/14, 11/24/14 & 12/8/14 were accepted as presented.

8. Interviews for the Board of Appeals and Planning Board –

Board of Appeals

UNAPPROVED MINUTES

- Jeffrey Brake until 3/1/17 (to fill Vern Gardner's prior term)

COUNCILOR SPILLER MOVED TO APPOINT JEFFREY BRAKE TO THE BOARD OF APPEALS FOR A TERM ENDING 3/1/7, SECONDED BY COUNCILOR DENAULT.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials –

Town Attorney MacEachern came to the podium and stated relative to amending the Charter of the KPA, that it could be done by going to the Legislature or changing it by Town Charter. He stated that the KPA was created by the Legislature and not by the municipality. Attorney MacEachern noted that if the Town decided to move forward with amending the Town Charter, it would need to be decided whether the change was a revision or an amendment. He continued that if it was deemed to be a revision, it would be subject to a Charter Commission review and they could end up making more changes to the Charter and could be a lengthy process. Town Attorney MacEachern stated that if it were sent to the Legislature, they would also be able to make more changes. He continued that it would be best for the town to decide how they wanted to proceed and they could go from there.

Chairperson Thomson noted they were waiting to receive some correspondence from the KPA in early January relative to this matter, and thought they should wait to receive that and then decide where to go from there.

10. PUBLIC HEARINGS -

a. (120214-1) The Kittery Town Council moves to hold a public hearing on an application from Melissa Elworthy, 4 Sea Salt Spray Lane, York, Maine for a Victualer's License for Cupcake Charlie's, 345 US Route 1.

Chairperson Thomson stated this public hearing was advertised in the local, printed media on December 12, 2014. Chairperson Thomson then opened the public hearing, and no response being heard, closed the public hearing.

COUNCILOR SPILLER MOVED TO APPROVE AN APPLICATION FROM MELISSA ELWORTHY, 4 SEA SALT SPRAY LANE, YORK,, MAINE FOR A VICTUALER'S LICENSE FOR CUPCAKE CHARLIE'S, 345 US ROUTE 1, SECONDED BY COUNCILOR WHITE.

UNAPPROVED MINUTES

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

11. Discussion

a. Discussion by members of the public –

Jim Forbes came the podium and indicated that he had attended the earlier workshop on board appointments. He continued that he hoped that Council would consider the other boards and commissions in town as important as they were. Mr. Forbes stated the most experienced candidates with a lack of special interests should be appointed, not just who was first on the list. He indicated he thought Council should consider this when rewriting the rules.

b. Response to public comment directed at a particular Councilor - None

c. Chairperson's response to public comments - None

12. UNFINISHED BUSINESS – None

13. NEW BUSINESS

a. Donations/gifts received for Council disposition - None

b. (120214-2) The Kittery Town Council moves to approve the disbursement warrants.

COUNCILOR SPILLER MOVED TO APPROVE THE DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR WHITE, WITH ALL IN FAVOR. MOTION PASSES 6/0.

c. (120214-3) The Kittery Town Council moves to approve a renewal application from The Ares, LLC, 68 Wallingford Square, Kittery for a Malt and Vinous Liquor License for AJ's Wood Grill Pizza, 68 Wallingford Square.

COUNCILOR WHITE MOVED TO APPROVE A RENEWAL APPLICATION FROM THE ARES, LLC, 68 WALLINGFORD SQUARE, KITTERY FOR A MALT AND VINOUS LIQUOR LICENSE FOR AJ'S WOOD GRILL PIZZA, 68 WALLINGFORD SQUARE, SECONDED BY COUNCILOR SPILLER.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

d. (120214-4) The Kittery Town Council moves to approve and sign the School Department policy on Disbursement Warrants for School Employees Wages and Benefits to expire on November 30, 2015.

UNAPPROVED MINUTES.

90 **COUNCILOR LEMONT MOVED TO APPROVE AND SIGN THE SCHOOL**
91 **DEPARTMENT POLICY ON DISBURSEMENT WARRANTS FOR SCHOOL**
92 **EMPLOYEES WAGES AND BENEFITS TO EXPIRE ON NOVEMBER 30, 2015,**
93 **SECONDED BY COUNCILOR WHITE.**

94 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
95 **6/0.**

96 e. (120214-5) The Kittery Town Council moves to ratify and sign a three year labor
97 contract from July 1, 2014 thru June 30, 2017, for the Police Department Dispatchers,
98 Administrative/Clerical, Technical and units.

99 **COUNCILOR WHITE MOVED TO RATIFY AND SIGN A THREE YEAR**
100 **LABOR CONTRACT FROM JULY 1, 2014 THRU JUNE 30, 2017, FOR THE POLICE**
101 **DEPARTMENT DISPATCHERS, ADMINISTRATIVE/CLERICAL, TECHNICAL AND**
102 **UNITS, SECONDED BY CHAIRPERSON THOMSON.**

103 **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT**
104 **OPPOSED. MOTION PASSES 5/1.**

105 f. (120214-6) The Kittery Town Council moves to sign a Release Deed, releasing the tax
106 liens to BWF Management, LLC for property located at 5 Whipple Road, Kittery, Maine
107 identified as Assessor's Tax Map 9, Lot 134.

108 **COUNCILOR WHITE MOVED TO SIGN A RELEASE DEED, RELEASING**
109 **THE TAX LIENS TO BWF MANAGEMENT, LLC FOR PROPERTY LOCATED AT 5**
110 **WHIPPLE ROAD, KITTERY, MAINE IDENTIFIED AS ASSESSOR'S TAX MAP 9,**
111 **LOT 134, SECONDED BY CHAIRPERSON THOMSON.**

112 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**
113 **6/0.**

114 14. **COUNCILOR ISSUE OR COMMENT**

115 Councilor Denault indicated that he had an issue with a member of the KCC Board being
116 hired to oversee the installation of boilers at the KCC. He continued he did not see why the town
117 would do that and that it raised a lot of red flags for him. Town Manager Puff responded that it
118 fell under the \$5000 procurement purchase allotment which she was allowed to decide on. She
119 indicated that she would follow up her comments in a memorandum.

120 15. **COMMITTEE AND OTHER REPORTS**

121 a. Communications from the Chairperson

UNAPPROVED MINUTES

122 Chairperson Thomson stated that they would be having a workshop with the Planning
123 Board on January 5, 2015.

124 b. Committee Reports –

125 Chairperson Thomson stated that the KCC Board had met the previous week relative to
126 the Library's parking lot proposal. He continued that the Library had come forward with
127 additional information and relayed that to Council.

128 16. EXECUTIVE SESSION – None

129 17. ADJOURNMENT

130 **COUNCILOR SPILLER MOVED TO ADJOURN, SECONDED BY COUNCILOR**
131 **DENAULT WITH ALL IN FAVOR. MEETING ADJOURNED AT 7:43 P.M.**

132

UNAPPROVED MINUTES

January 5, 2015

Kittery Town Council
Special Meeting
Requested by Jeffrey Thomson, Chair

Council Chambers

1. CALL TO ORDER: Chairperson Thomson called the meeting to order at 6:00 p.m.
2. INTRODUCTORY: Chairperson Thomson read the introductory.
3. PLEDGE OF ALLEGIANCE: Chairperson Thomson led those present in the Pledge of Allegiance.
4. ROLL CALL: Answering the roll were Councilors Frank Dennett, Charles Denault, Jeffrey Pelletier, Russell White, Kenneth Lemont and Chairperson Jeffrey Thomson. Councilor Spiller arrived at 6:07 p.m.
5. EXECUTIVE SESSION:

a. (010115-1) The Kittery Town Council moves to go into executive session, with the Town Manager in accordance with 1 M.R.S. §405 (6) (D), to discuss labor negotiations and 1 M.R.S. §405 (6) (A) to discuss a personnel matter.

IT WAS MOVED BY CHAIRPERSON THOMSON AND SECONDED BY COUNCILOR PELLETIER TO GO INTO EXECUTIVE SESSION AT 6:02 P.M. ROLL CALL VOTE WAS TAKEN AND MOTION PASSED, 6-0.

IT WAS MOVED BY CHAIRPERSON THOMSON AND SECONDED BY COUNCILOR PELLETIER TO COME OUT OF EXECUTIVE SESSION AT 6:38 P.M. ROLL CALL VOTE WAS TAKEN AND MOTION PASSED, 6-0 (Councilor Denault was out of the room at roll call).

6. ADJOURNMENT:

IT WAS MOVED BY COUNCILOR SPILLER AND SECONDED BY CHAIRPERSON THOMSON TO ADJOURN THE MEETING AT 6:40 P.M. ALL WERE IN FAVOR BY A VOICE VOTE. MOTION PASSED 7-0.



January 5, 2015

Ms. Nancy Colbert Puff
Kittery Town Manager
200 Rogers Road
Kittery, ME 03904

Re: Old Ferry Lane Extension (Tax Map 17, Lot 5)

Dear Nancy:

You have asked for a legal opinion on the title ownership to a small parcel of land that was once a part of Old Ferry Lane sometimes referred to as Ferry Lane. This parcel extends southeasterly from the intersection of Bowen Road and Old Ferry Lane and extends to the shore of Spruce Creek and the waters of the Piscataqua River. I will refer to this parcel hereinafter simply as "Lot 5" as shown on Kittery's Tax Map 17. Attached to this opinion is the portion of Tax Map 17 showing this Lot 5.

In the early years of our Town, Lot 5 was an extension of Old Ferry Lane which allowed the public access to the ferry landing at the southerly end of Old Ferry Lane on the shore of Spruce Creek. As referenced on the attached portion of Tax Map 17, one can see that Lot 5 is bounded on its easterly sideline by Lot 4 known as 15 Bowen Road. Lot 4 is presently owned by Donna Lorange Ruddy, Trustee, and I will hereinafter refer to this

Duncan A. McEachern & Dan W. Thornhill
10 Walker Street, P.O. Box 360
Kittery, Maine 03904-0360
Telephone: 207/439-4881 Fax: 207/439-8893

McEACHERN & THORNHILL
Attorneys at Law

Ms. Nancy Colbert Puff
Kittery Town Manager
Re: Old Ferry Lane
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Lot 4 as the "Ruddy" parcel.¹

Lot 5 is bounded on its westerly sideline by Lot 6 known as 23 Bowen Road. Lot 6 currently is owned by Susan C. Hyde and I will refer hereinafter to this Lot 6 as the "Hyde" parcel.²

Sideline Boundaries of Lot 5

The westerly boundary of Lot 5, abutting the "Hyde" property, is marked by an "old stone wall" extending almost entirely along the boundary of Lot 5 with the Hyde parcel extending from Bowen Road to the shore of Spruce Creek. The easterly boundary of Lot 5 as it abuts the "Ruddy" property is substantially bounded by a stone and cement wall extending from the Ruddy driveway next to Bowen Road to the shore of Spruce Creek.

Conclusion

Based on my title research of Lot 5 and for the reasons that follow, it is my opinion that Lot 5 on the Town Tax Map 17 is

¹This property was deeded by Cary Mabley to Donna Lorange Ruddy, Trustee, on November 5, 2013 and is recorded in Book 16738, Page 598 of the York County Registry of Deeds.

²This property was acquired by Susan C. Hyde by deed dated June 30, 1998 and is recorded in Book 8921, Page 48 of the York County Registry of Deeds.

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owned by the Town of Kittery and provides public access to Spruce Creek at that location.

Discussion

A. Town Records

Early Town records reflect that Ferry Lane existed as a public way long before Arabella S. Bowen on September 20, 1913 deeded land to the Town of Kittery that later became the portion of Bowen Road that extends from Ferry Lane to Whipple Road. Although the early Town records do not appear to show when Ferry Lane or Old Ferry Lane as it is sometimes called extending to the ferry landing at Spruce Creek was created as a public way, there are several references throughout the early Town records of the existence of Ferry Lane as a public way. For example, the Town Meeting in 1906 proposed to expend public funds "to repair Ferry Lane." There are other such references in the Town records to Ferry Lane as a public way.

B. Abutting Deed References to Old Ferry Lane.

It appears clear that Old Ferry Lane in the early days of our Town was a primary public road leading to the ferry landings on the shore of Spruce Creek. This is reflected in the title history of both the Ruddy and the Hyde parcels.

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Attorneys at Law

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Ruddy Parcel

The Ruddy property (15 Bowen Road) was owned in the 1850's by Levi B. Trefethen. When Levi conveyed out this property in 1856, he described its entire southwesterly boundary bordering Lot 5 as running "by the old road formally leading to the Kittery Point ferry"³ Interestingly, the most recent 2013 deed description from Cary Mabley to Donna R. Ruddy, Trustee, recorded in the York County Registry of Deeds, Book 16738, Page 598, describes 15 Bowen Road substantially the same way as it was described one hundred fifty years earlier. The current Ruddy deed describes its boundary with Lot 5 as:

A certain tract or parcel of land, together with the buildings and improvements thereon situate on 15 Bowen Road, so-called, in the Town of Kittery, County of York, and State of Maine, and being formerly known as the Fernald Homestead, so-called, bounded and described as follows:

Southeasterly by the waters of Spruce Creek and the Piscataqua River; Southwesterly by the old road leading to the former landing of the Kittery Point Ferry; Northwesterly by Bowen Avenue, sometimes known as Bowen Road; and Northeasterly by land formerly of Florence Cleaves and now of Andrews. [Emphasis added]

Thus, the current deed description to the Ruddy property as

³See Book 246, Page 238, recorded on July 15, 1856 in the York County Registry of Deeds.

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Page 5

it abuts Lot 5 has remained virtually identical over the past century and a half with regard to its boundary with Lot 5 as being "the old road leading to the former landing of the Kittery Point Ferry." The same holds also true when we examine the Hyde Parcel bordering Lot 5 on the other (westerly) side.

Hyde Parcel

The Hyde Parcel shown as Lot 6 on Tax Map 17 abuts the westerly side of Lot 5 and is known as 23 Bowen Road. This Lot was owned a century and a half ago by Sarah C. Fernald. When Sarah conveyed her lot to William Fernald on May 29, 1873, she clearly described her easterly boundary abutting Lot 5 as "[B]eginning at the Piscataqua River at the Old Ferry way and running Northwesterly by said way or road"⁴

The most recent deed description to the Hyde property appears in the 1999 Hyde deed recorded in Book 8921, Page 48 of the York County Registry of Deeds. This 1999 deed described the relevant portion of the Hyde property abutting Lot 5 as being substantially the same as the deed drawn nearly 150 years earlier to this same property. It specifically refers to its common

⁴This 1873 deed is recorded in Book 339, Pages 482 and 484, in the York County Registry of Deeds.

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boundary of the Hyde parcel with Lot 5 as the "Old Ferry Lane, so called." The 1999 Hyde deed describes its boundary with Lot 5 as:

Beginning on the Town Road, so-called, also known as Bowen Road, at the northwesterly corner of the premises herein described, at a cement post set in the ground, and thence running by said Road, North 63½° East, about one hundred thirty-five (135) feet to Old Ferry Lane, so-called; thence by said Old Ferry Lane, South 16° East, sixty-three (63) feet to a point; thence by said Lane, South 38° East, one hundred twenty-eight feet six inches (128'6") to the Piscataqua River, so-called, at the part thereof known as Spruce Creek; ... [Emphasis added]

Thus, the owners of both the Hyde and Ruddy parcels over the last century and a half and to the present day have acknowledged that the respective properties abutted the road to the Ferry Landing or Old Ferry Lane, which is now Lot 5 on Town Map 17.

Influencing Other Facts

The Kittery Tax Assessor's Maps and tax cards as far back as these cards are maintained record that the Town of Kittery owns Lot 5. While this alone does not determine title issues, it is an indication that the Town has considered itself the title owner. In addition, the Town over many years has acted in an open and consistent manner regarding its rights as an owner of this property. In or about 1990, for example, the Town constructed a sewer line across a portion of Lot 5. In 2007, a former owner to

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the Ruddy property, Cary Mabley, sought and was granted by the Town an easement allowing the owner of 15 Bowen Road to cross the "old road leading to the formerly land of the Kittery Point Ferry" to get in and out of the driveway located on 15 Bowen Road. Conversely, at no time has the Town acted inconsistent with its ownership or ceded any other interest in Lot 5 to anyone else.

Maine Decisinal Law

Finally, the Maine Supreme Court within just the past month once again affirmed its adherence to the doctrine of "title by acquiescence."⁵ Accordingly, the Court held that title by acquiescence to a particular piece of property is established when there is clear and convincing evidence that tends to demonstrate that there exists:

- (1) possession up to a visible line marked clearly by monuments, fences, or the like;
- (2) actual or constructive notice to the adjoining landowner of the possession;
- (3) conduct by the adjoining landowner from which recognition and acquiescent . . . may be fairly inferred; [and]
- (4) acquiescence for a long period of years such that the policy behind the doctrine of acquiescence is well served by recognizing the boundary.

As earlier noted above, Lot 5 is bounded by ancient

⁵Grondin et al. v. Hanscom, 2014 ME 148, ¶ 11.

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Attorneys at Law

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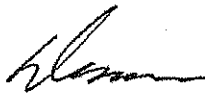
boundaries in the form of stone and cement walls marking the boundaries between Lot 5 on the west with the Hyde parcel and on the east with the Ruddy parcel. Moreover, the current owners and past owners of the Hyde and Ruddy properties for at least the last century and a half have continuously recognized the boundaries of their respective properties as abutting Lot 5 on Tax Map 17. As recognized in Maine and as applied to the facts of this inquiry, the doctrine of title by acquiescence standing alone would legally establishes ownership of Lot 5 in the Town of Kittery.

Conclusion

For all the reasons set forth, it is my opinion that the Town of Kittery is the title owner of Lot 5 as bounded by the existing stone wall on either side. Unless the Town otherwise restricts access over this area, Lot 5 is open to the public for access to and from Spruce Creek.

Should you have any questions or seek more clarification regarding this title issue, please let me know.

Very truly yours,




Duncan A. McEachern

DAMcE/cn
Attachment

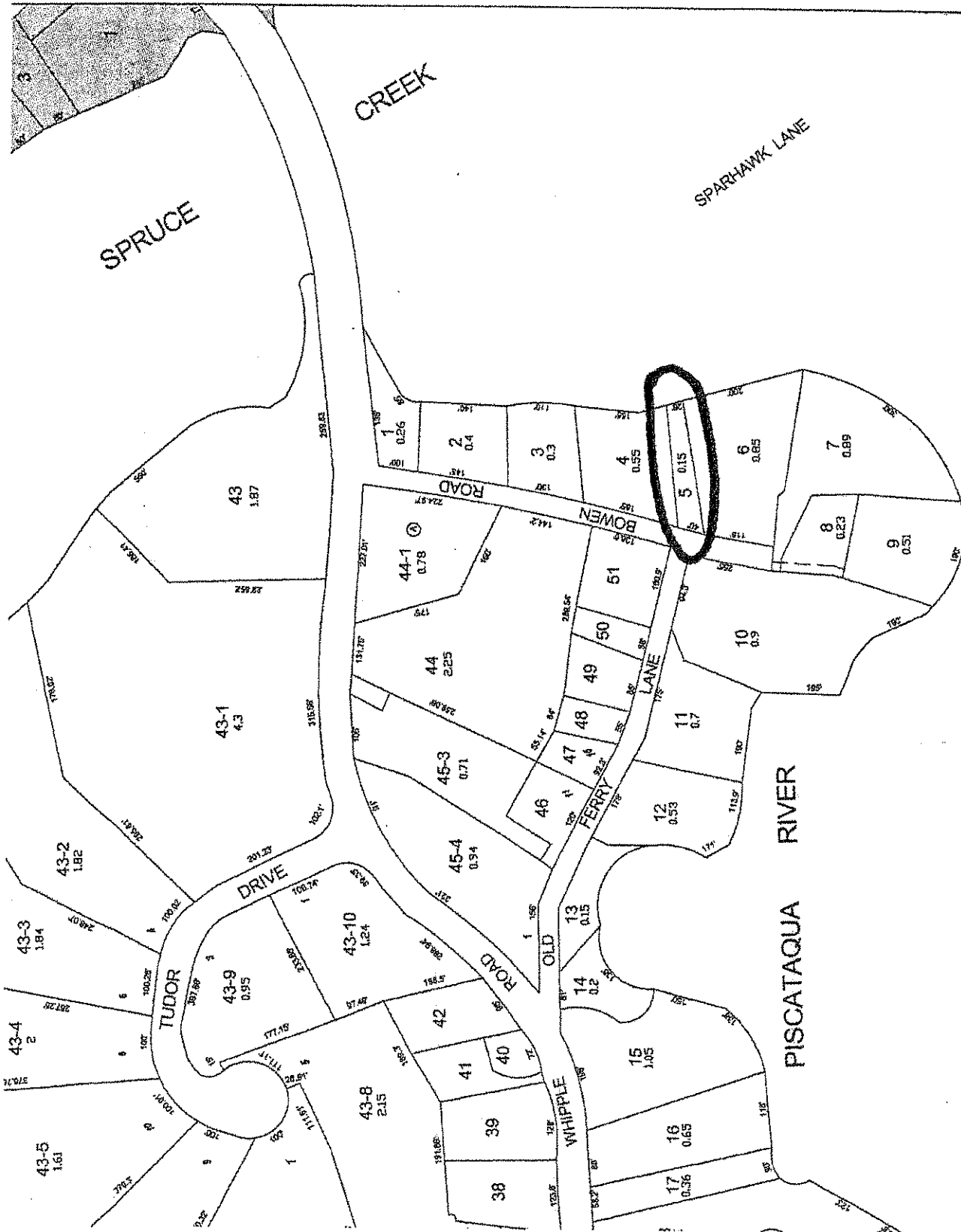
\\TOK-LTRS\OldFerryLe.opn

ABSTRACT MAP NO. **R11** LOT NUMBER _____
 PARCEL NUMBER **74** PROPERTY INDEX _____
 INDIVIDUAL LOT NO. _____ RIGHT OF WAY _____
 STREET ADDRESS NO. _____ EASEMENT _____

SCALE IN FEET



0 100 200





Town of Kittery, Maine

Conservation Commission

P.O. Box 808, Kittery, Maine 03904

1/12/15

DATE: January 4, 2015

TO: Nancy Colbert Puff, Town Manager
Jeff Thomson, Town Council, Chairman
Chris Di Matteo, Town Planner
Shelly Bishop, Acting Code Enforcement Officer

FROM: Earledean Wells, Chairman

RE: Old Ferry Landing Shoreland violation, Bowen Road

In 2007 the State of Maine took control of all land within the entire 250 feet Shoreland Zone of the State of Maine; requiring applicants to submit all proposed Maine Shoreland Zone development plans to be reviewed by the Maine DEP. Upon approval, the Maine DEP issues a Permit which states in bold letters on the first page and throughout the document that the Permit is conditional upon the applicant meeting all town Code requirements and receiving a Permit from the town in which the proposed development will take place.

Kittery Land Use and Development Code 16.10.10.1.1 A. "no person may, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the shoreland or resource protection overlay zones in which such activity or use would occur, or expand, change or replace an existing use or structure, or renew a discontinued nonconforming use."

Kittery Code 16.10.10.1.2 A: requires "every applicant for a permit must complete and submit an application...as indicated in Section 16.10.5.2B". 16.10.10.1.2B: "All applications must be signed by the owner, owners, or lessee of the property... If the person signing the application is not the owner or lessee of the property then that person must submit a letter of authorization from the owner or lessee".

38 MRSA 436-A definitions

12 Structures. "'Structure' means anything temporarily or permanently located, built, constructed or erected...of any kind and anything constructed or erected on or in the ground".

Kittery Code 16.7.3.5.2.C "When it is necessary to remove vegetation within the water or wetland setback area to relocate a structure, the Planning Board may require replanting of native vegetation to compensate for the destroyed vegetation, and may restrict mowing and pruning of the replanted native vegetation to encourage a more natural state of growth. Replanting will be required as follows:"

2. "...other woody and herbaceous vegetation and ground cover that is removed, or destroyed, to relocate a structure must be reestablished. An area at least the same size as the area where the vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed."



Town of Kittery, Maine

Conservation Commission

P.O. Box 808, Kittery, Maine 03904

Kittery Code 16.9.1.3 A. "No person may perform any act or use the land in a manner which would cause substantial or avoidable erosion, create a nuisance, or alter existing patterns of natural water flow in the Town."

3. "Preserve trees and other vegetation wherever possible;"
 7. "Provide...for avoiding sedimentation of runoff channels on or off the site;"
 8. "Plant permanent, and where applicable indigenous, vegetation and install structures as soon as possible for the purpose of the soil stabilization and revegetation:"
- F. Erosion and sedimentation control measures apply to all aspects of the proposed project involving land disturbance, and must be in operation during all stages of the activity. The amount of exposed soil at every phase of construction must be minimized to reduce the potential for erosion."
- G. "Any exposed ground area must be temporarily stabilized in accordance with the "Maine Erosion & Sediment Control Best Management Practices."

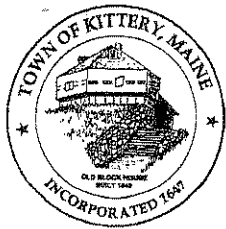
Kittery Code 16.9.2.2 A. "In a Resource Protection or Shoreland Overlay Zone, cutting of vegetation is prohibited within the strip of land extending one hundred feet, horizontal distance, inland from the normal high-water line..."

Kittery Code 16.10.3.4 "All development in the Shoreland, Resource Protection,...Overlay Zones involving the use, expansion, change or replacement of an existing use or structure...must be reviewed and approved as provided in this Code, and tracked as a shoreland development for reporting purposes."

In October, 2014 several Kittery residents became aware that new residents, Mr. and Mrs. Clainos, had hired Doane's Landscaping to build stone steps down to the water on town owned property at the Old Ferry Landing on Bowen Road. Page Mead was contacted. He arrived at the Old Ferry Landing and asked to see the Permit allowing this work in the Shoreland Zone and was told that Public Works had given the permission. Upon contacting Norm Albert, Director of Public Works, and being told that there was no permission Mr. Mead accompanied Mr. Albert to the site, the landscaper was told he was on town property and to stop work immediately.

Page Mead and I, along with the other members of the Open Space Committee, worked from 2005 to 2010 to secure the Old Ferry Landing property from the new abutting property owner, the former owner of that property had encroached on the town's property, claimed it was abandoned and barred Kittery residents from using it. The Open Space Committee, chaired by John Carter, the Kittery Town Manager, worked with the Town Attorney to search the deed to prove the Town's ownership and the new property owner an easement, at that time, for the driveway that had been paved on the town property. The Open Space Committee, along with Code Enforcement, the Town Planner, Public Works, Parks Commission and Conservation Commission members, attended a sitewalk with a representative of the Maine DEP. Maine DEP determined that the rocks that were used to access the shore/water should remain; this area could not accommodate large numbers of people using it since there is very little actual shore exists and concluded that the construction of stairs would cause far too much shoreland impact and destruction for the limited access it provided. Therefore no stairs were installed. Vegetation was purchased and planted by Public Works to stabilize the shoreland area. A bench and sign was also purchased and installed by Public Works.

The stairs that were installed without a permit in October, 2014 caused vegetation to be dug up both at the top of the stairs as well as on both sides of stairs; the rocks that had been used to access the shore were removed and the soil dug out for the new stairs was piled in their place---this soil is eroding into the water as no vegetation has been replanted there or anywhere to stabilize the disturbed area; the dug up area at the top of stairs is eroding and grooves are appearing where landscaper's fabric has been put down and is breaking



Town of Kittery, Maine

Conservation Commission

P.O. Box 808, Kittery, Maine 03904

apart. Maine DEP was called into assess the new stairs and determined that the stairs should not be removed to avoid causing further damage in the shoreland zone. To date the stairs are not even, there is no hand rail, the soil is eroding quickly and this area now a hazard to the health and safety of the public – clearly this was not an improvement. It requires attention now and will need to be maintained in the future – all is work that the Public Works Department will have to take on at the expense of the residents of Kittery.

Certainly, it must be clear that a violation has occurred. Work was done in the Shoreland Zone without a proper review of the proposed project, without a proper Permit, without following Kittery Code or State Statutes on protection of the Shoreland Zone - by people who did not own the property. The residents of Kittery should not have to bear the cost to correct the problems with the stairs, to install the handle rail or to re vegetate the area to stabilize the erosion that is occurring. While I was not able to find it, I feel that there must be a Statute dealing with the removal of rocks from the Shoreland Zone in the State of Maine.

At a minimum, there needs to be a professional assessment of the expense to stabilize the loose soil piled next to the new stairs where the rocks have been removed; new vegetation must be planted on the other side of the stairs where plants have been dug out; the area at the top of the stairs, where plants were also dug out, must be replanted to control the erosion that has already begun. There needs to be a determination if a railing should be installed and at what cost to the Shoreland Zone in this area. There needs to be a professional determination as to whether this area should continue to be used as access to the water now that it has been altered and may now be a liability to the town. It may be determined that a wider buffer should be planted to prevent further soil erosion and this area is now better suited to be a public park/overlook for observing Spruce Creek and the Piscataqua River.

Mr. and Mrs. Clainos should receive a violation for failing to observe the State Statutes and the Kittery Land Use and Development Code for development in the Shoreland Zone on town owned property. They should receive a fine that will, at a minimum, cover the cost to hire a professional(s) to assess and repair the environmental damage they have caused on this property.

11/12/15
Agenda

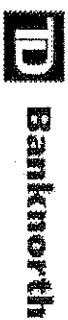
VENDOR: KITTERY RECREATION DEPART YORK HOSPITAL CHECK NO. 432944

INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
DEC 2015	11	9,250.00	9,250.00	0.00	9,250.00

Partnership

MAKE YORK NO:
this goes on council
agenda ~~5003-43600~~
Agenda money from York
Scholarship money from York
Goes in acc # 5003-43600
5003-43600

CHECK NO. 432944 CHECK DATE 12/08/14 VENDOR NO. 4620 K



York Hospital
15 HOSPITAL DRIVE
YORK, MAINE 03909

CHECK NO. 432944

52-7445/2112
CHECK AMOUNT
9,250.00

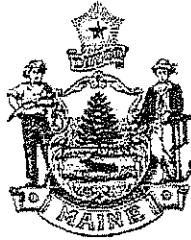
PAY TO THE ORDER OF KITTERY RECREATION DEPARTMENT
Nine Thousand Two Hundred Fifty And 00/100 DOLLARS
200 ROGERS ROAD
KITTERY, ME 03904

[Signature]
MP
TWO SIGNATURES REQUIRED FOR AMOUNTS OVER \$5000
MP

Department of Public Safety
Division

Liquor Licensing & Inspection

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.
To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.



BUREAU USE ONLY

License No. Assigned:

Class:

Deposit Date:

Amt. Deposited:

PRESENT LICENSE EXPIRES 1-10-15

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTIONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) - (Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>WEATHERVANE SEAFOODS</u> DOB: _____				2. Business Name (D/B/A) <u>WEATHERVANE SEAFOODS</u>			
DOB: _____				Location (Street Address) <u>306 Rt 1</u>			
DOB: _____				City/Town State Zip Code <u>KITTERY ME 03904</u>			
Address <u>31 BADGER'S ISLAND WEST</u>				Mailing Address <u>31 BADGER'S ISLAND WEST</u>			
City/Town State Zip Code <u>KITTERY ME 03904</u>				City/Town State Zip Code <u>KITTERY ME 03904</u>			
Telephone Number <u>439-0335</u> Fax Number <u>439-7754</u>				Business Telephone Number <u>439-0330</u> Fax Number <u>439-7463</u>			
Federal I.D. # <u>521153457</u>				Seller Certificate #			

3. If premises are a hotel, indicate number of rooms available for transient guests: —

4. State amount of gross income from period of last license: ROOMS \$ — FOOD \$ 3,674,157 LIQUOR \$ 332,832

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

complete Supplementary Questionnaire, If YES

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

7. If manager is to be employed, give name: SEAN MEGON

8. If business is NEW or under new ownership, indicate starting date: —

Requested inspection date: — Business hours: —

9. Business records are located at: 31 BADGER'S ISLAND WEST, KITTERY ME

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐
12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
SEAN MERTON	7-6-71	BATON ROUGE, LA
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
YORK, ME		

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____
 Offense: _____ Location: _____
 Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
 Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

16. Does/do applicant(s) own the premises? Yes ☒ No ☐ If No give name and address of owner: _____

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) a one story restaurant with 5 dining rooms

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
 YES ☒ NO ☐ Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? .5 mi Which of the above is nearest? church

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: mortgage w/ TD BANK

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: York, ME on Nov 5, 20 14
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

TERRY GARDNER

Signature of Applicant or Corporate Officer(s)

**SUPPLEMENTARY QUESTIONNAIRE FOR CORPORATE APPLICANTS, LIMITED LIABILITY COMPANIES AND
LIMITED PARTNERSHIPS**

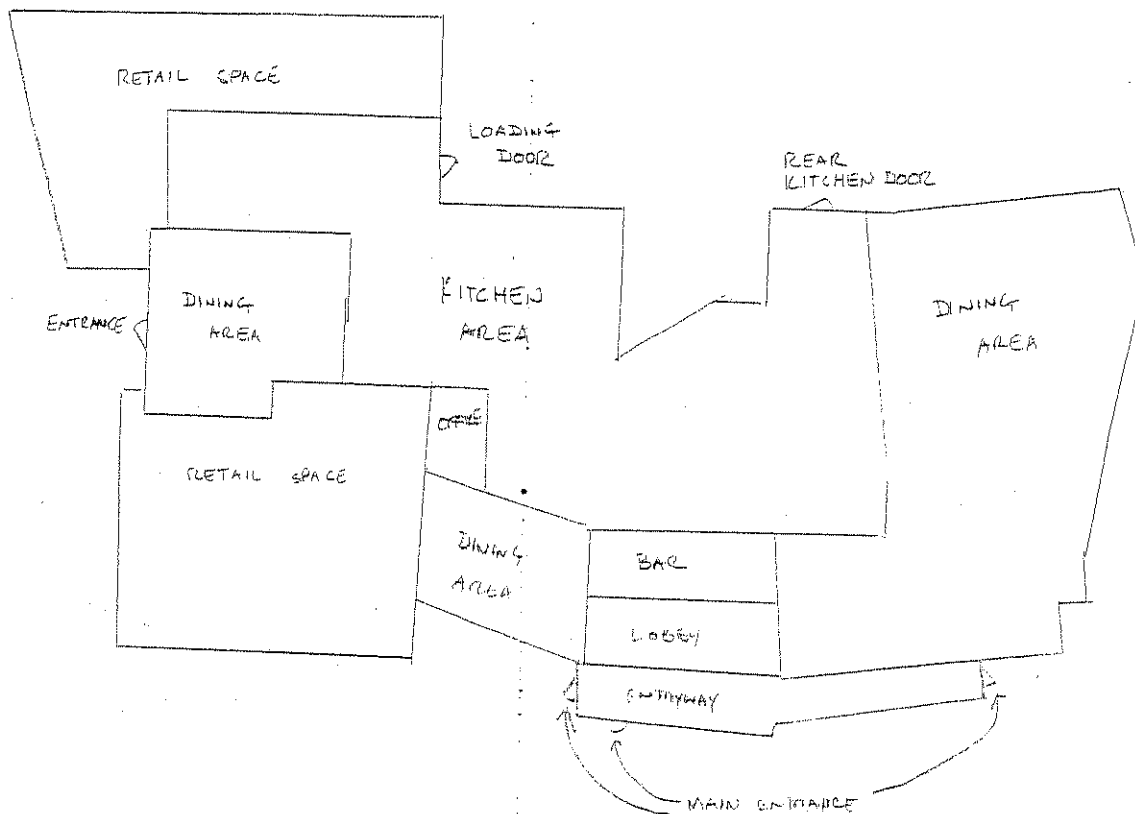
- | Name | Address Previous 5 Years | Birth Date | % of Stock | Title |
|------------------|---------------------------------------|------------|------------|-------|
| TERILL GARDNER | 7 WINDYBARK DR
VETERA, R, NE 03905 | 5/3/54 | 74.25 | |
| JACOB A GARDNER | " " | 3/18/56 | 25.77 | |
| WILLIAM A KURKUL | 5 BROADWAY
ANDOVER, MA 01810 | 7/1/53 | .004 | |

- Dated at: _____ On: _____
City/Town _____ Date _____

TERRY GANDER
Print Name of Duly Authorized Officer

PREMISE DIAGRAM

KITTER



STATE OF MAINE

Dated at: Kittery, Maine York SS
City/Town (County)

On: _____
Date

The undersigned being: ☒ Municipal Officers ☐ County Commissioners of the
☐ City ☒ Town ☐ Plantation ☐ Unincorporated Place of: Kittery, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§ 653. Hearings; bureau review; appeal

1. **Hearing.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.
 - A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]
 - B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd).]
 - C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal with 120 days of the filing of the application. [1999, c.589, §1 (amd).]
 2. **Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:
 - A. Conviction of the applicant of any Class A, Class B or Class C crime: [1987, c.45, Pt.A§4 (new).]
 - B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]
 - C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]
 - D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592, §3 (amd).]
 - E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]
 - F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]
- [1993, c.730, §27 (amd).]
3. **Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.
 - A. [1993, c.730, §27 (rp).]
 4. **No license to person who moved to obtain a license. (REPEALED)**
 5. **(TEXT EFFECTIVE 3/15/01) Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.



RECEIVED
JAN 08 2015

TOWN OF KITTERY, MAINE

BY: 1:54 per

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: Thomas Battcock-Emerson

RESIDENCE: 10 Ox Point Drive, Kittery, ME 03904

MAILING (if different)

E-MAIL ADDRESS: b-e@comcast.net PHONE #: (Home) 703-0363 (Work) 752-1371

Please check your choices and list in order of priority by marking 1, 2, 3, etc.:

- | | |
|---|--|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Board of Assessment Review |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Cable Television Rate Regulation Board | <input type="checkbox"/> Shellfish Conservation Committee |
| <input type="checkbox"/> Recycling Scholarship Selection Comm. | <input type="checkbox"/> Community Center Bldg. Comm./Rec. Comm. |
| <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input type="checkbox"/> Port Authority | <input type="checkbox"/> Planning Board |
| <input type="checkbox"/> Personnel Board | <input checked="" type="checkbox"/> Other Economic Development Committee |

EDUCATION/TRAINING: Architectural/Planning Degree, Registered Architect, Business

RELATED EXPERIENCE (Including other Boards and Commissions)

Planning Board

Board Of Appeals

PRESENT EMPLOYMENT: studio B-E Architecture (self)

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY ☒ Yes ☐ No

ANY KNOWN CONFLICT OF INTEREST: No

REASON FOR APPLICATION TO THIS BOARD: General interest/expertise

I HAVE ☐ HAVE NOT ☒ ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

Thomas Battcock-Emerson
SIGNATURE OF APPLICANT

1/8/15
DATE

HOCKEY SHOOT-OFF ON LEGION POND

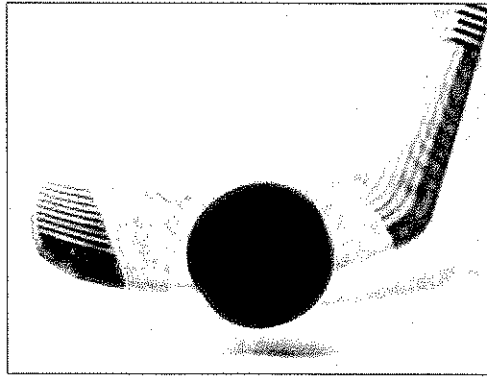
SUNDAY, February 15th

Noon – 3pm

backup: Sunday, Feb. 22nd
~~Monday, Feb. 16th~~

1. Fundraiser for Traip Academy Project Graduation 2015.
2. Point of Contact: Tess Schneier, 438-9215, tesshschneier@yahoo.com
3. Takes place on Legion Pond on Old Post Rd. at Rt. 103 (1 block from Memorial Field)
4. Parking at Memorial Field south lot, Sue's Seafood lot?, and streetside.
5. Contest Events:
 - Distance
 - In-the-net
 - Closest-to-the-tree-target
 - Through-the-cones
 - In-the-circle
6. Events modified by age groups:
 - under 5
 - 5 – 8yoa
 - 9 – 12yoa
 - 13 – 15 yoa
 - 16 – 18 yoa
 - 18 – 21 yoa
 - Over 21 yoa
7. Prizes. Participation prizes for 8 under (do all events, earn a prize)
(maybe an autographed puck? Can Dan H. get from UMO?)
Top combined score for other age groups: 1st, 2nd, ~~3~~ places.
8. Refreshments: Hot chocolate, coffee, donuts. Donations accepted.
9. Bonfire with xmas tree burn.
10. Entry fee: \$5 for under 21
\$10 for 21 and over

Join us for the 1st Kittery



HOCKEY

SHOOT-OFF

on Legion Pond

**down the street from Memorial Field
on Old Post Rd. at Rt.103.**

Sunday, Feb. 15th

(Back-up date: ^{Sun} Mon., Feb. ^{22nd} ~~16th~~)

Noon - 3pm

**"Shoot the puck" contests for distance and
accuracy with prizes to win!**

\$5 entry fee under 21

\$10 entry fee for 21 and over

**Proceeds to benefit R. W. Traip Academy
Project Graduation 2015**



Association Insurance Management, Inc.
your partner for insurance and risk solutions

MEMBER CERTIFICATE OF INSURANCE

1/2/15

Thank you for purchasing your insurance from AIM. This is your Member Certificate and should be kept with your permanent records.

Insured #: ME531350

NAMED INSURED MEMBER:

Traip PTA
Attn: PTA President
12 Williams Avenue
Kittery, ME 03904

Named Insured & Mailing Address

Education Support Purchasing Group
c/o AIM
P.O. Box 674051
Dallas TX, 75267-4051

PRODUCER NAME

AIM Association Insurance
Management, Inc.
PO Box 674051
Dallas TX, 75267-4051

Company / Coverage	Policy #	Effective Dates	Deductible	Limits of Insurance	
Homeland Ins Co of New York / BW91163 Commercial General Liability		10/28/14 - 10/1/15	NONE	Each Occurrence	\$1,000,000
				General Aggregate	\$2,000,000
				Products - COMP/OPS Aggregate	\$2,000,000
				Personal & Advertising Injury	\$1,000,000
				Fire Damage (any one fire)	\$50,000
Homeland Ins Co of New York / BW91163 Medical (Accident Medical)		10/28/14 - 10/1/15	NONE	Any One Person	\$5,000
				Aggregate	\$5,000

Certificate Holder:

This member certificate, together with the common policy conditions, coverage part(s), coverage form(s), and endorsements, if any, complete the above numbered policy. Copies of the Master Policies are available upon request or may be printed at www.aim-companies.com

AUTHORIZED REPRESENTATIVE

January 5th, 2015

To Maryann Place

I would like an agenda item to discuss the dilapidated buildings and properties and to see what we could do.

I would like to request an investigation and a determination from the Town Manager and CEO and see if it is in violation of Title 8 or 17 MRS.

Issues. One photo from a street view shot showed a "For Sale" sign in the window of a junk bus, so there may be an issue with used vehicle sales (up to 5 in a 12 month period w/o license is OK).

"Property maintenance" and "nuisance" would only get the junk out. Would we have to get a determination on the building to be a hazard to health or safety to get that included?

Chuck Denault

40 Old Post Road, Map 8 Block 25

Chapter 8.2 PROPERTY MAINTENANCE

8.2.1 Purpose.

The purpose of this Ordinance is to recognize the right of individual property owners and occupants within the Town to regulate and maintain their respective property grounds while at the same time setting minimum standards for the maintenance of such grounds to ensure that the condition of the grounds:

1. is not offensive to the comfort and enjoyment of owners and occupants of abutting properties in the neighborhood;
2. is not injurious to the public health, safety and welfare;
3. promotes the preservation of property values of abutting properties; and
4. does not pose potential risks to the environment including ground and subsurface water quality, and prevents **nuisance conditions** from being maintained on the grounds of such properties.

8.2.2 Definitions.

Nuisance, as defined in Title 1, Section 1.2.2.2, includes those public and common nuisances as defined by state statute 17 M.R.S., §2802 et seq.

8.2.4 Required Grounds Maintenance.

A. Required. All property grounds or parts thereof must be maintained in a condition free of any nuisance, unsafe or unsanitary conditions or accumulation of garbage, household trash, rubbish, junk, litter, worn or discarded plumbing, heating supplies, oil or propane tanks, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber, building debris, waste and all scrap iron, steel, other scrap ferrous or nonferrous material, debris, scrap lumber, tires, automobile parts, worn out or unused or inoperable machinery or parts thereof, glass, unused and/or inoperable appliances, worn and unused furniture, and more than two vehicles not bearing a valid motor vehicle inspection sticker and a valid motor vehicle registration.

Title 17: CRIMES, Chapter 91: NUISANCES, Subchapter 3: PARTICULAR NUISANCES

§2802. Miscellaneous nuisances

The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture that, by noxious exhalations, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or of the public;

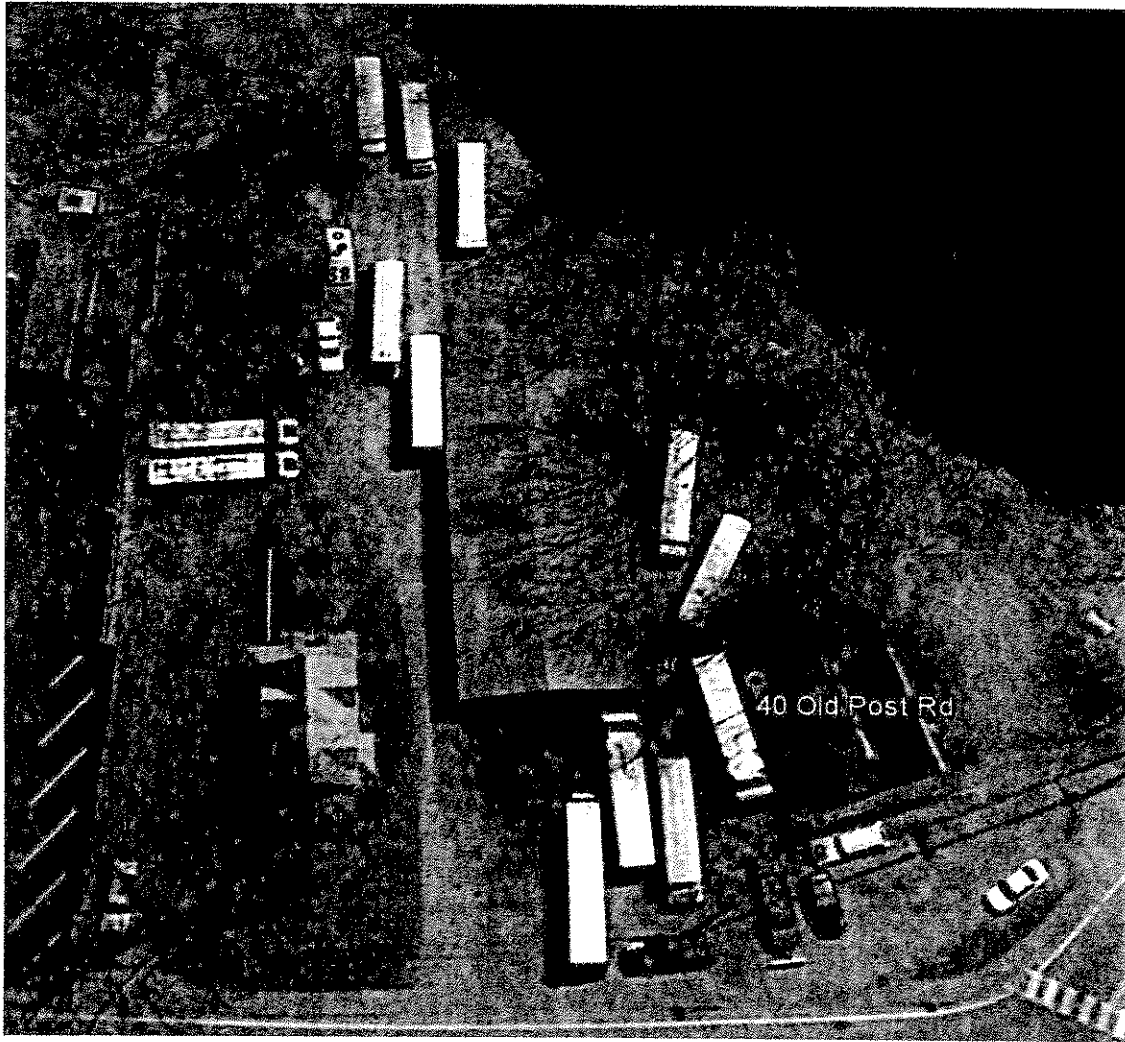
Any places where one or more old, discarded, worn-out or junked motor vehicles as defined in Title 29-A, section 101, subsection 42, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are public nuisances.

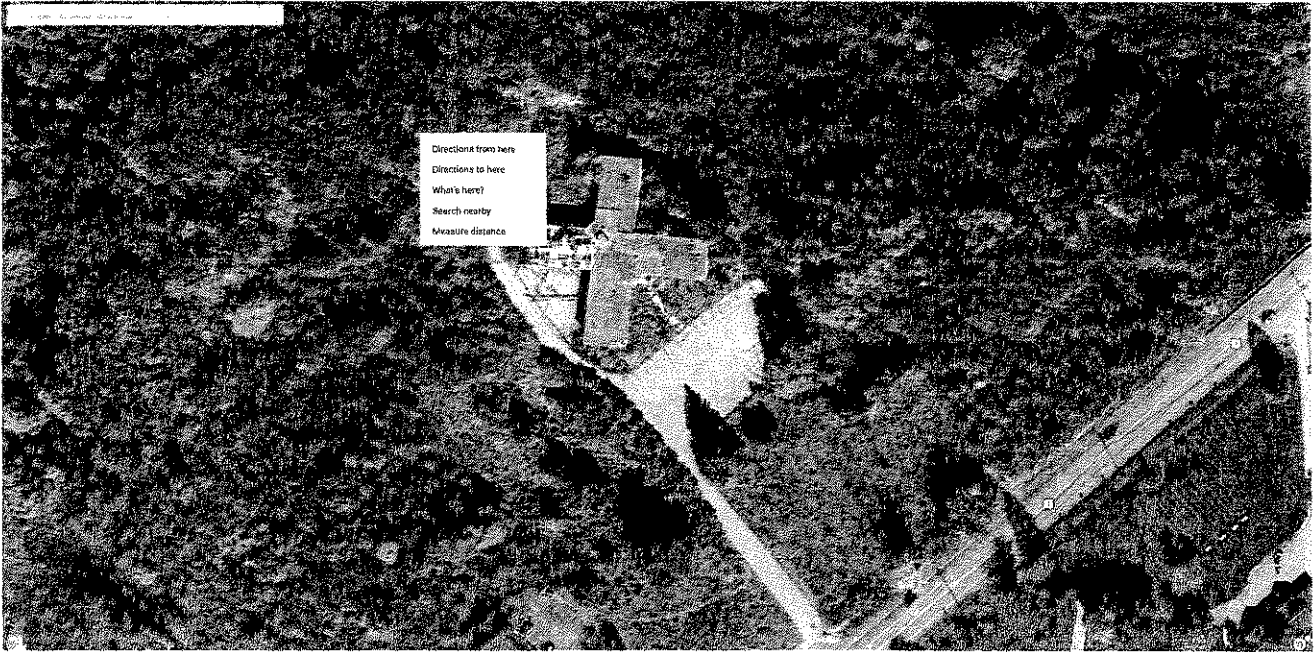
Title 17: CRIMES, Chapter 91: NUISANCES, Subchapter 4: DANGEROUS BUILDINGS

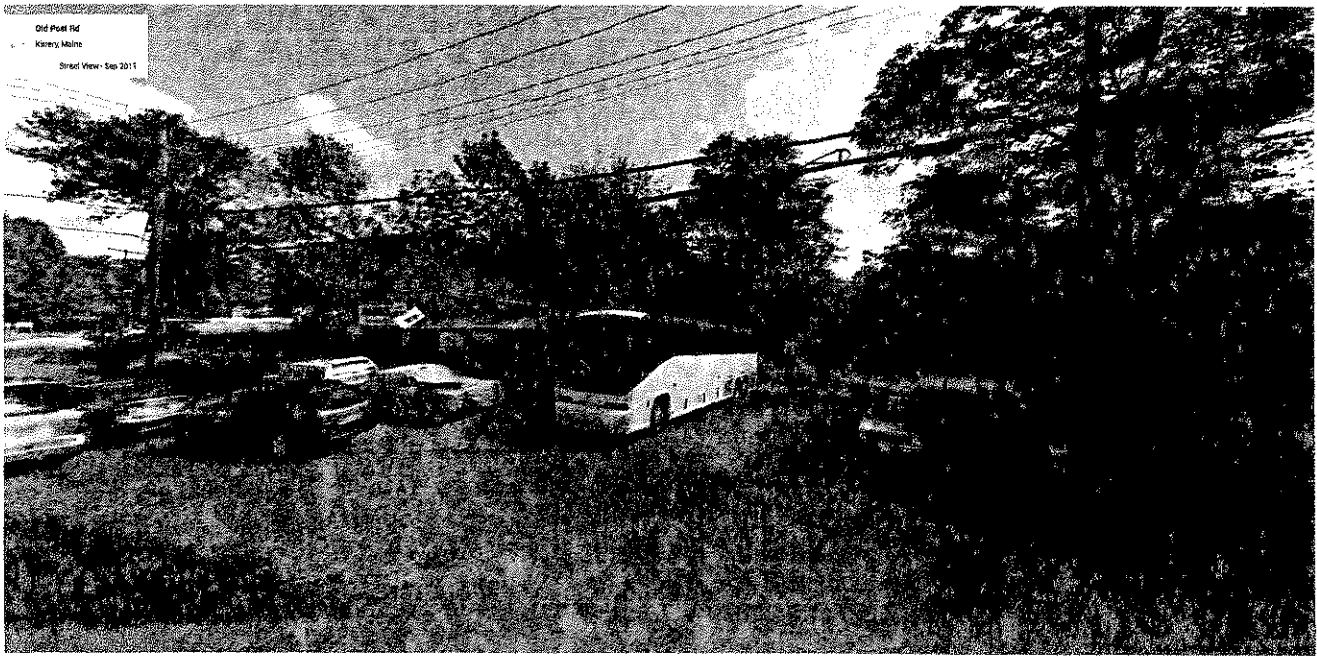
§2851. Dangerous buildings

Whenever the municipal officers in the case of a municipality,, find that a building or structure or any portion thereof or any wharf, pier, pilings or any portion thereof that is or was located on or extending from land within the boundaries of the municipality, is structurally unsafe; unstable; unsanitary; constitutes a fire hazard; is unsuitable or improper for the use or occupancy to which it is put; constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment; or is otherwise dangerous to life or property, they may after notice and hearing on this matter adjudge the same to be a nuisance or dangerous and may make and record an order prescribing what disposal must be made of that building or structure.













TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1328 Fax: (207) 439-6806

FEB 16 2010

TOWN OF KITTERY

9:23 AM

APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: BRUCE CRAWFORD

RESIDENCE: 8 BADGERS ISLAND W.

MAILING (if different) _____

E-MAIL ADDRESS: brucecrawfordnco@aol.com PHONE #: (Home) 439-3169 (Work) 603-430-9282

Please check your choices and list in order of priority by marking 1,2,3, etc.:

- | | |
|---|---|
| <input type="checkbox"/> Zoning Board of Appeals | <input type="checkbox"/> Board of Assessment Review |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Mary Safford Wildes Trust |
| <input type="checkbox"/> Cable Television Rate Regulation Board | <input type="checkbox"/> Shellfish Conservation Committee |
| <input type="checkbox"/> Recycling Scholarship Selection Comm. | <input type="checkbox"/> Community Center Bldg. Comm./Rec. Comm. |
| <input type="checkbox"/> Parks Commission | <input type="checkbox"/> Open Space Committee |
| <input checked="" type="checkbox"/> Port Authority / | <input type="checkbox"/> Planning Board |
| <input type="checkbox"/> Personnel Board | <input checked="" type="checkbox"/> Other- Eastern Trail Management District <u>2</u> |

EDUCATION/TRAINING: Masters of Civil Engineering; Prof. Eng (Maine)

RELATED EXPERIENCE (Including other Boards and Commissions) None

PRESENT EMPLOYMENT: Ambit Engineering, Inc., Portsmouth

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY ☒ Yes ☐ No

ANY KNOWN CONFLICT OF INTEREST: none

REASON FOR APPLICATION TO THIS BOARD: Sounds interesting

I HAVE / HAVE NOT ☒ ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

Bruce Crawford
SIGNATURE OF APPLICANT

2/16/10
DATE

